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June 25, 2002

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Room TWB-204  
Washington, DC 20554

**Re: Notice of Ex Parte Communication**

Implementation of the Pay Telephone Reclassification and Compensation  
Provisions of the Telecommunications Act of 1996  
CC Docket No. 96-128

Dear Ms. Dortch:

Yesterday, Dick Juhnke and I met on behalf of Sprint Corporation with Jeff Carlisle, Chris Libertelli, Lynne Milne, and Lenworth Smith of the Wireline Competition Bureau about this proceeding. The issues and points that Sprint covered are outlined in the attached presentation, which we distributed at the meeting.

Pursuant to the requirements of Section 1.1206 of the Commission's rules, we are filing an electronic copy of this notice for addition to the docket.

Sincerely,

John E. Benedict

attachment

cc: H. Richard Juhnke  
Jeffrey J. Carlisle  
Christopher D. Libertelli  
Lynne J. Milne  
Lenworth Smith

# **Sprint Corp.**

## **Past-Period Payphone Compensation Issues**

June 24, 2002



# Issues

- Establishing revised Interim Period plan
- True-ups for past overpayments (28.4¢ rate period)

## Sprint's Position On Interim Period

- Each IXC should use its actual per-call, per-phone data for the period that immediately follows the Interim Period.
  - Data are real, not “estimated”
    - Best available surrogate for actual Interim Period
    - Unbiased, auditable, verifiable
  - Fairest approach for PSPs and IXCs
  - Ensures each carrier pays for its own liability
- Use 22.9¢ rate, with interest due from end of the quarter.
- Use Flex ANI waiver methodology or later per-call data for IXCs that have data issues.

# Sprint's Concern

- The Commission is headed down the wrong path.
  - The parties need a solid decision, not another appeal and remand.
  - *4th Recon Order* ensures additional disputes and litigation, sure to be reversed.

## An IXC Should Not Be Responsible For FBRs

- *4th Recon Order* directs IXCs to pay PSPs for the Interim Period liability of facilities-based resellers.
  - This is unfair to IXCs.
  - This is impossible to sort out administratively.
  - This is reversible error under Illinois.

## The Commission's Current Approach

- Manufacturing an artificial average number of calls per payphone, then allocating by some manufactured estimate of IXC market share.
- This approach is fraught with problems.

# Weaknesses of the *4th Recon Order* Approach

- Unfair to PSPs
  - Penalizes those that ensure their payphones are well-utilized
  - Rewards those that have low usage
- Impossible to get complete, reliable data on total number of calls per payphone
  - *4th Recon Order* won't withstand judicial review.
    - Based on data that are unexplained
    - Commission has no idea how data were gathered or calculated
  - These problems are explained in Sprint's petition for reconsideration and clarification.
- There are better alternatives.



# The RBOCs' CIC Data Are Unusable

- The data are not what the Commission asked for.
  - Commission sought all call attempts from payphones for CY1997, CY1998, and 4Q00-3Q01.
    - RBOCs do not have such data.
    - RBOCs provided subjective estimates of presumed completed calls to dial-around and subscriber 800 numbers.
    - Not clear why the Commission is interested in call attempts.
- Incomplete
  - Great majority of data for the Interim Period is missing.
- Inconsistent
  - Bases for RBOC estimates generally not explained, differ among -- even within -- RBOCs.
  - Scope of data varies by time period, region, even type of call.
- Not a reliable or usable sample

# Post-Interim Period Adjustments

- APCC seeks to avoid paying back or crediting IXC's for their overpayments.
  - APCC is making equitable arguments about the pre-1996 period that is closed.
    - That period is not subject to further adjustment.
  - APCC is wrong on the law and the equities.
- As a matter of law, the Commission must allow IXC's to recoup their overpayments.
  - MCI court recognized Commission had authority to order refunds and clearly envisioned it would do so.